

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR 221/2023(O&M)

Date of decision:12/01/2023

Pankaj

.....Petitioner

Vs.

Narender Chaudhary and another

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Rajnish K.Gupta, Advocate with
 Mr. Sachin, Advocate for the petitioner.

 Mr.Ajit Lamba, Advocate for respondent no.1/Caveator

Nidhi Gupta, J.

Present revision petition has been filed for setting aside the order dated 3.1.2023 (Annexure P-7) whereby the petitioner/ tenant's application for amendment of the written statement dated 5.7.2022 (Annexure P-2) has been dismissed by the Ld. Addl. Civil Judge (Sr. Div.) Hisar.

Brief facts of the case are that respondent no.1/ landlord filed an ejectment petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act,1973 against the petitioner and respondent no.2 herein on grounds of bona fide necessity, non-payment of rent, and that the demised

premises was unfit and unsafe for human habitation. Upon issuance of notice the petitioner appeared before the Rent Controller on 18.5.2022, and thereafter, filed written statement and counter-claim dated 5.7.2022. Perusal of the record shows that the matter was adjourned to 5.7.2022 and thereafter again on 19.7.2022 to enable respondent No. 2 to file his written statement. However, as no written statement was filed on behalf of respondent No. 2, his defence was struck off vide order dated 19.7.2022 whereupon he filed CR 4667/2022 before this Court. Vide order dated 21.10.2022 (Annexure P-3) the revision petition was allowed by this Court granting respondent No.2 one opportunity to file his written statement on 4.11.2022 subject to payment of costs of Rs.25,000/-.

Thereafter on 13.12.2022 petitioner filed present application Annexure P-5 for amendment of written statement dated 5.7.2022 to incorporate therein the newly-discovered facts that a) the respondent No. 1/ landlord is owner-in-possession of another house; and b) in his reply he could not bring on record the fact that tenancy originated in the present shop with his father Manohar Lal.

It is submitted by the learned counsel for the petitioner that after filing of the written statement the petitioner had come to know that landlord is in possession of a commercial property which is just 15-20 yards his residence, as also the fact that tenancy originated with his father. It is further submitted that it was imperative to include these facts in the written statement as the same were necessary for the just and proper adjudication of the matter.

On the other hand, it is submitted by the learned counsel for respondent no.1/landlord/Caveator that the so-called commercial property

mentioned by the petitioner is in fact a residential property, whereas present rent petition has been filed in respect of non-residential property.

Heard learned counsel for the parties.

Perusal of the application for amendment Annexure P-5 filed by the petitioner shows that the newly discovered property is described therein as a ‘house’ which was inherited by the respondent No. 1/ landlord from his grandmother; Whereas in the present revision petition the same property has been described as commercial in nature. Clearly, the petitioner is attempting to mislead this Court. Further, petitioner is unable to dispute the assertion of ld. counsel for respondent no.1/landlord that the alleged property mentioned in the application for amendment is a residential property. Even the ground that the tenancy originated with father of the petitioner is not reason enough to permit amendment. Even otherwise, no details have been given by the petitioner as to when and how he discovered these new facts. It is clear that the petitioner is deliberately misusing due process in trying to prolong the proceedings. It is also admitted that trial has already commenced and cross examination of the witnesses is under way.

In view of the above, finding no merit in this revision petition the same is hereby dismissed. However, nothing stated above, shall be taken as an opinion on the merits of the case.

12/01/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No